

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION**

**MARCH 15, 2007**

**DOCKET NO. 9-66-06V**

Change in zoning from OR-1 Office Residential to C-1 Commercial on property located at 3305 Barbour Lane (Tax Block **W004**, Lot **3**), containing 0.69 acres and being in the City of Barbourmeade. In addition, a variance of 5 feet is requested to decrease the required 30-foot setback along the north property line to 25 feet.

**Project Name:** Barbour Lane Animal Hospital  
**Location:** 3305 Barbour Lane  
**Owner(s):** George & Janice Hellman  
**Applicant:** Blakary, LLC  
3303 Barbour Lane  
**Representative:** Paul B. Whitty  
3500 National City Towers  
Louisville, KY 40202  
**Engineer:** AGR Engineering /Alex Rosenberg  
13029 Middletown Industrial Park, Ste 100  
Louisville, KY 40223  
**Case Manager:** Mike Wilcher, Planner II

Notice of this public hearing appeared in **The Courier Journal** on March 3, 2007, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**The following spoke in favor of this request:**

Alex Rosenberg  
1300 Middletown Ind. Blvd.  
Louisville, KY 40223

Paul B. Whitty  
3500 National City Towers  
Louisville, KY 40202

Jeff Bishoff  
3303 Barbour Lane

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**The following spoke in opposition:**

No one spoke.

**Interested Parties:**

No one spoke.

**Agency Personnel:**

Mike Wilcher, Planner II, Planning & Design Services

Paula Wahl, Transportation, with Planning & Design Services

**AGENCY TESTIMONY:**

Mike Wilcher presented the case. A rezoning and variance are requested. Mr. Wilcher showed the site on a Power Point presentation. With suggestions from staff, the applicant eliminated the waiver and they are dedicating 25 ft of right-of-way. The applicant addressed all the technical elements including some building design features. Staff recommends approval of rezoning. The applicant states that the variance is needed.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

Paul Whitty the applicant's representative on behalf of Blakery, LLC, presented the case using a Power Point presentation of the site.

Jeff Bishoff, Dr. O'Grady's husband, explained why the windows on the front are small. They don't want visibility in the surgery room of the vet's hospital.

Mike Wilcher explained that on the revised plans, the applicant stated the code was met. Cross-easements were addressed with regard to access to the back property.

Paula Wahl addressed cross easement concerns, with regard to traffic flow.

Mr. Bishoff agreed with the suggestions of the commission with regards to the design of the building windows. He referred to a Power Point presentation.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke.

**SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

No one spoke.

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**REBUTTAL:**

No one spoke.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the March 15<sup>th</sup> proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

**ZONING**

On a motion by Commissioner Storm, the following resolution was unanimously adopted:

**WHEREAS**, The Applicant has requested a change in zoning from OR1-Office Residential to C-1 Commercial for a 0.69 acre tract located in the Neighborhood Form District at the intersection of Old Brownsboro Road (Hwy 22) and Barbour Lane ("Subject Property") to permit the construction of a 5,800 s.f. veterinary clinic; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Community Form/Land Use Guideline 1 with all applicable policies under, including Policy B.3 because the Subject Property is located in the Neighborhood Form District which is predominately residential, but contains, at appropriate locations, neighborhood centers with a mixture of uses including offices and services at a scale appropriate for nearby neighborhoods and because the animal hospital is a neighborhood serving use which has been located on the adjacent property since 1992 and its customer base is overwhelmingly located in the surrounding neighborhood; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.3, 3.23, and 3.28 because the proposal is consistent with the Neighborhood Form District and the existing pattern of development in terms of use, mass and scale and building materials and is compatible with adjacent residential uses and because the Applicant has agreed to limit uses per an agreement with the City of Barbourmeade; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the

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proposal conforms to the Mobility/Transportation Guideline 7 and the applicable policies thereunder, including Policies 7.1, 7.3, and 7.10 because the proposal will not result in a significant increase in traffic to the area and because the office hours will be similar to the hours during which Norton Elementary is in session, and because the Applicant will provide internal sidewalks that will connect to sidewalks along Barbour Lane which supports alternative forms of transportation, including pedestrian and transit; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Mobility/Transportation Guideline 9, and all applicable policies thereunder, including Policies 9.1 and 9.2 because the proposal includes a sidewalk internal to the development which will allow for safe pedestrian movement and because there are existing sidewalks along Barbour Lane and because the Applicant will, by binding element, provide cross access, which will facilitate traffic and pedestrian movement in the area, support the use of transit, and connect to an internal sidewalk leading to the entrance to the office and the proposed parking area; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Livability/Environment Guideline 10, and all applicable policies thereunder, including Policies 10.3, 10.5, 10.7 and 10.11 because the Subject Property is not located in a flood-prone area and the total amount of impervious surface will increase to 14,111 s.f. as a result of the installation of a parking lot to serve the animal hospital and because the surface runoff from the entire site will be directed toward Barbour Lane to prevent any negative impact to adjacent properties and because the Subject Property is not located adjacent to, and does not feature, a blueline stream, and the stormwater runoff after the proposed development will not exceed current runoff conditions, and drainage designs assume a fully developed watershed; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Livability/Environment Guideline 11, and all applicable policies thereunder including Policy 11.3 because construction will adhere to MSD Best Practices and shall be conducted in compliance with all applicable codes relating to erosion and sediment control and prior to the commencement of construction, an Erosion Prevention and Sediment Control Plan ("EPSC") shall be submitted to MSD for approval; and

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**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the Community Facilities Guideline 14, and all applicable policies thereunder, including Policies 14.2, 14.3, and 14.4 because the Subject Property is currently a rental house and all utilities, including water, electric and gas, are currently in place at the Subject Property and as stated in a letter from Michael Ballard, Environmental Health Engineer with the Louisville Metro Health Department, dated September 26, 2006, public water service is available, and sanitary sewer service is available through a lateral extension and sewage from the Subject Property will flow to and be treated at the Floyd's Fork Wastewater Treatment Plant; and

**WHEREAS**, the Commission finds, based upon the staff report, committee reviews, submittals by the Applicant and public hearing testimony that the proposal conforms to the C Community Facilities Guideline 15, and all applicable policies thereunder, including Policy 15.9, because the site will be adequately served by the Worthington Fire Protection District; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to approve at the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from OR-1 to C-1** on property described in the attached legal description be unanimously **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Storm, Ernst, Blake, Carlson, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Queenan.**

**ABSTAINING: No one.**

**VARIANCE**

On a motion by Commissioner Storm, the following resolution was unanimously adopted:

**WHEREAS**, The proposed variance will not adversely affect the public health, safety or welfare, and;

**WHEREAS**; The proposed variance will not alter the essential character of the general vicinity; and;

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**WHEREAS;** The proposed variance will not cause a hazard or a nuisance to the public; and;

**WHEREAS;** The proposed variance is the minimum allowable to save the existing trees; Now therefore be it

**RESOLVED** that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance to allow the parking and maneuvering to encroach in the required setbacks

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Storm, Ernst, Blake, Carlson, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Queenan.**

**ABSTAINING: No one.**

**DEVELOPMENT PLAN**

On a motion by Commissioner Storm, the following resolution was unanimously adopted; now, therefore be it

**RESOLVED**, That the Louisville Metro Planning Commission does hereby unanimously **APPROVE** the district development plan **SUBJECT** to the following binding elements, with changes to a cross over element and that the binding element 9 be changed to meet staff approval.

**Proposed Standard Binding Elements - Docket #9-66-06 V**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The square footage of the development shall not exceed 5,800 square foot of gross floor area.

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3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot and dedicating right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of

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- the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
  9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 15, 2007 Planning Commission meeting. Renderings submitted after this date shall be staff approvable.

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Storm, Ernst, Blake, Carlson, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Queenan.**

**ABSTAINING: No one.**